

From: Sheldrake, Beth
Sent: Tuesday, April 02, 2013 1:29 PM
To: Kelly Wright; Susan Hanson
Cc: Rochlin, Kevin; Woods, Jim; Wernitz, James; Zokan, Jim; Schweiss, Jon; bbacon@sbtribes.com; Jill E. Grant; Ordine, Charles; Virginia Monsisco
Subject: Letter to Chairman Small regarding upcoming Government to Government consultation
Attachments: Agenda_SBT Consultation_04242013.docx; Consult ltr to Small_04_02_13.pdf

Categories: Provided for LEPIC 1 to 11-19 2013

Hi, Kelly and Susan. Attached per my conversation yesterday with Kelly is a letter being sent to Chairman Small today regarding the upcoming government to government consultation with the Shoshone-Bannock Tribes. Also attached is the draft agenda for your consideration.

Please let me know if you have questions and we look forward to our upcoming consultation.

Thanks!

Beth

Beth Sheldrake | Unit Manager
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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OFFICE OF
ENVIRONMENTAL
CLEANUP

APR 02 2013

The Honorable Nathan Small
Chairman of the Shoshone-Bannock Tribes
Fort Hall Tribal Business Council
P.O. Box 306, Pima Drive
Fort Hall, Idaho 83203

Dear Chairman Small:

The purpose of this letter is to formally offer Shoshone-Bannock Tribes the opportunity to consult on a government to government basis regarding upcoming actions on the FMC Operable Unit of the Eastern Michaud Flats Superfund site. This consultation will provide an opportunity to discuss our upcoming actions and obtain your input prior to the EPA making our final decisions. It is my understanding that we have agreed that I will meet with you and the rest of the Fort Hall Business Council on April 24, 2013, as the mutually acceptable date for government to government consultation on these matters. For your consideration, attached is a draft agenda to help guide these discussions.

The primary topic for the consultation is the type of enforcement mechanism the EPA will use for overseeing FMC's performance of the remedial design and remedial action selected in the Interim Record of Decision dated September 27, 2012. At this phase of cleanup, EPA's governance and oversight of the work to be performed by the responsible party is generally conducted in accordance with either a Consent Decree or a Unilateral Order.

The Consent Decree negotiation process involves a pre-referral to engage the U.S. Department of Justice and lodging and entry of a consent decree in a Federal District Court. This can be a very time consuming and resource intensive process. The UAO process is much more streamlined. First, it does not require a lengthy negotiation with the responsible party. It also does not require U.S. Department of Justice participation or court approval. It does, however, include similar coordination with the affected Tribes and States on the terms of the Unilateral Order.

In this instance, the EPA believes the most expeditious way to ensure FMC performs the actions required to protect human health and the environment outlined in the Interim Record of Decision is the issuance of a Unilateral Order. We are in the process of drafting a Unilateral Order that we will share with you prior to this consultation. This UAO will include provisions that would be of interest to the Tribes such as full participation in review of all submittals and access to the operable unit during performance of the work when accompanied by EPA. EPA would also fund the Tribes' participation in the cleanup activities through a Cooperative Agreement. We will send an advance copy of a proposed draft Unilateral Order to Kelly Wright prior to our consultation. If you would like us to send copies to any other person, please let me know.

Consult ltr to Small_04_02_13.pdf

The EPA appreciates this opportunity and looks forward to participating in this government to government consultation with the Shoshone-Bannock Tribes Fort Hall Business Council. Consultation, as the EPA in Region 10 use the term, means "a process of meaningful communication and coordination between EPA and tribal officials prior to EPA taking actions or implementing decisions that may affect tribes."

In addition to the topic described above for consultation, during the meeting on April 24th, we would also like to discuss the next steps on the Independent Review for soil treatment technologies provide an update on the Gay Mine remedial investigation project.

Please feel free to contact me at 206-553-1847, if you have any questions or concerns regarding the proposed consultation topics. Please contact James Zokan to confirm the schedule and agenda by April 10, 2013, so my staff and I may make final arrangements.

I look forward to meeting with you on these important matters.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Richard Albright', with a long horizontal flourish extending to the right.

Richard Albright, Director
Office of Environmental Cleanup

cc: Mr. Bill Bacon, Shoshone-Bannock Tribes
Ms. Kelly Wright, Shoshone-Bannock Tribes

**EPA/Fort Hall Business Council Government to Government Consultation
April 24, 2013
Fort Hall Business Council Chambers
Draft Agenda**

8:30 AM	Welcome and Introductions (All)
8:45 AM	Overview of Remedy Implementation Strategies for the FMC Operable Unit (Rick Albright and Cyndy Mackey, EPA)
9:00 AM	Fort Hall Business Council Views and Input on Remedy Implementation Strategies and Discussion
10:30 AM	Update on Independent Review of Soil Excavation and Treatment Technologies (EPA and Shoshone Bannock Tribes Staff)
11:00 AM	Update on Gay Mine Investigations (EPA)
11:30 AM	Summary and Next Steps (All)
12:00 PM	Adjourn